INSTITUTIONAL CAPITAL ON TRADE-MARKETING AND ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT POLICY MAKING
A research model based on critical analysis of NAFTA

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ABSTRACT

The aim of this study is to critically analyze the implications in terms of the relationship between cooperation and conflict and institutional capital, as well as their interactions with trade–marketing and environmentally sustainable development policy making under the framework of NAFTA. The critical analysis stems from the question of whether the North American Free Trade Agreement should continue to operate despite the challenges and the institutional capital capacity built by the country members. The methodology is based on literature review aimed to create a relationship between the analytical variables in order to obtain a research construct. This research model is used to critically analyze the implications in terms of cooperation and conflict relationships as institutional capital and their interactions with trade-marketing and environmentally sustainable development policy making. It is concluded that, although the existence of NAFTA is severely questioned, its institutional capital has positive effects on the implications of trade-marketing, however, environmentally sustainable development proves to be conflictive and highly contentious, although some positive effects are developing.

Keywords: Environment, institutional capital, marketing, NAFTA, trade, sustainable development
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INTRODUCTION

Sustainable development implies the implementation of natural, human, social and institutional capitals. The assets required for sustainable economic development are the different forms of capital. According to Ashby and Carney (1999), these forms of capital are: physical capital, natural capital, financial capital, human capital, social capital and institutional capital. The most tangible forms of capital are physical and natural. Physical capital refers to technical capital such as tools, equipment, etc. that work together with natural capital. Financial capital refers to stocks of money. Social capital is an interactional cooperative potential (Zenou, 2009) based on trust. Institutional capital is the set of institutions that give forms and repeatability to these relations (Bénédique 2009). Institutional capital is an asset related to the implementation of actions in development processes (Garrabé 2008).

Institutions play a significant role in the sustainable development of nations (North, 1990). Institutions are defined as the formal and informal rules of the game, and transaction costs influence economic efficiency (North 1981, 1990; Williamson 1985; Eggertsson, Thrainn 1990). Institutional capital is related to institutional cost (Chen, 2008). The transformation of institutional capital into institutional costs creates mobility barriers in different organizational arrangements. Institutions have economic effects on sustainable development which are coined as institutional capital. Institutional capital is the limitations devised by man that shape human interaction, thereby structuring incentives in human exchange, be it political, social or economic (North, 1995:13).

Economic institutions are a form of capital and, as such, are related to institutional capital in terms of the institutional structure of economic production, economic exchange relations and reducing transaction costs. Economic institutions are related to market institutions and are considered as instruments to reduce transaction costs. Institutional economic arrangements drawn by organizations are related to productive and exchange interactions.

The North American Free Trade Agreement (NAFTA) is an economic institution whose existence has been severely questioned by its members, although since its inception it has developed a type of institutional capital formed by relationships of cooperation and conflict. This institutional capital has serious implications in the interactions between free trade and its marketing activities with the environmentally sustainable capital.

Institutional capital from the perspective of ecological and institutional economics is useful to explain theories and strategies of organizations and sustainable economic growth and development (Greenwood and Holt, 2008, p. 446). The new institutional economics (NIE) supports the notions of social capital related to issues of trust (Raiser 1997 and 1999; Raiser *et al.* 2001) and the informal social processes related to institutional capital to analyze and explain sustainable development (Gatzweiler *al.* 2002; Parto 2003 and 2005; Bezanson 2004; McGranahan and Satterthwaite 2004).

Institutional capital supports competitive advantage to the organizations and economic institutions. This new theoretical approach provided an explanation of the paths to create a competitive advantage based on characteristics of strategic resources to achieve sustainable development (Huang and Cao, 2016). The presence of institutional capital in the economic production and exchange interaction contexts justifies the economic advantages (Kaji, 1998).

Institutional capital has strong links with market institutions and therefore with marketing strategies and activities, for the creation and transaction of economic capital, financial, physical and natural resources, stocks and flows. Domestic markets generate institutional capital when they improve the dynamic capabilities to respond effectively to the demands of complicated external and internal business environments (Lan and 2011). The practical operation of institutional capital in strategic management and its relationship with competitive advantage is limited from the institutional and resource-based views. From the resource-based view theory, institutional capital is considered as non-material resources.

The institutional capital approach is used in this study to analyze the relevance of North America Free trade Agreement (NAFTA) institutions in marketing activities and sustainable development. Institutional capital is the determinant for efficiency in marketing activities and sustainable development actions.

2. Conceptualization of institutional capital

From the perspectives of finance and accounting, institutional capital has been defined as the total of the credit union's regulatory reserve accounts, undivided or retained earnings, special reserves designated for a specific purpose, and net income that has yet to be closed to the retained earnings account. However, this financial and accounting perspective is not relevant for the purposes of this paper.

The concept of institutional capital is relative and contingency-oriented in regards to the function of economic activities and the interactions between enterprises and institutions (Besharov and Smith, 2014). Institutional capital is a type of capital that refers to the economic value of rules, norms and cognition.

Institutions have economic value supporting economic efficiency as the foundational logics for the transformation into institutional capital (Schultz, 1986). Economic value and scarcity of institutional capital are powerful incentives for organizations. Institutional capital is defined as the environmental elements embedded in the organizations' environment, which can enhance resource allocation capability. Organizations may possess institutional capital if the institutional context contributes to the acquisition and development of superior bundles of resources (Oliver, 1997). Thus, institutional capital is considered as a capability in an institutional context (Reihlen, Smets, and Veit, 2009; Lounsbury, and Glynn, 2001).

The concept of institutional capital integrates resource-based view and in-situational theory, in such a way that in any institutional environment, institutional capital is an effective resource management decision. The institutional capital consists of the stock of institutions formed by the formal and informal rules of the game; it exists in both public and private sectors of a region (Boisier, 2003), country or group of countries. Institutional capital is defined as "the specific conditions in an organization's internal and external institutional context that allow the formation of competitive advantage" (Bresser and Milloning, 2003, p. 229). Institutional capital is reflected in the decision-making behavior for organizational resources and strategic choices which have an impact on competitive advantage (Bresser and Molling, 2003).

Institutional capital enhances specific capabilities and strategic choices and actions by matching internal and external institutional environments to create sustainable competitive advantages and to achieve higher enterprise performance. Institutional capital is related to the specific conditions in an organization's internal and external institutional contexts that allow the formation of competitive advantage. The organization's internal institutional context originates from the individual and organizational competitive advantage. "It holds that organizations and the individuals who populate them are suspended in a web of values, norms, rules, beliefs, and taken-for-granted assumptions." (Barley and Tolbert 1997, p. 93).

Institutional capital affects strategic organizational behavior and choices which translates into competitive advantages in terms of performance, value and ability (Zhang and Wang, 2010). Institutional capital is an intangible capital that can help to make better individual and organizational strategic decisions adapted to the interaction of internal and external environmental pressures to generate higher economic value (Martin, 2014) and better sustainable development. Institutional capital promotes value-creating activities. Institutional capital can nurture market and non-market capacities as a strategic environmental resource of the firm to enhance economic performance and dynamic responsiveness (Long, 2013).

For Hoff and Sen (2005), institutional capital is a mechanism that is shaped by shared values, norms, attitudes, expectations, standards and beliefs. Institutional capital is a concept related to the mainstream ideology and power identity to reflect the socio-cultural knowledge and skills about the institutional rules (Lin, 2005). Institutional capital is "the whole of the formal and abstract institutions which constitute the inciting structure organizing the relations between individuals or organizations, within the process of economic and social production" (Garrabé, 2007, p. 127).

Platje (2008a, p. 145) defines institutional capital as the "institutions, institutional governance and governance structures that reduce uncertainty, stimulate adaptive efficiency (i.e. the ability of a system to adapt to changing conditions) and stimulates the functioning of the allocation system and sustainable production and consumption patterns" (Platje, 2008[a], p. 145).

Institutional capital is understood by Vicencio Meza (2009) as the accumulation of formal or informal rules of the game and their compliance mechanisms, which have a positive or negative impact on economic performance. Institutional capital is the stock formed by the set of social rules and norms existing within a social nucleus, born of formal and informal structures, which define the entire structure of incentives or disincentives, determining the type of human behavior and integrating legal sanctions and morals. Institutional capital is an asset composed by formal and informal institutions that affect the adaptive efficiency of an economy's directly or indirectly productive activities (Ahrens and Jünemann 2009).

Institutional capital is a unique and heterogeneous resource embedded in the external institutional environment that brings sustainable competitive advantage for enterprises (Lu, Zhou, Bruton, and Li, 2010). Institutional capital, as a heterogeneous resource, is a unique, value-creating, scarce, inimitable and non-substitutable resource embedded within the organization's environment. These are the sources of institutional capital that can be translated into a sustainable competitive advantage.

A. Components, elements, characteristics and properties of institutional capital

The levels of institutional capital are the individual, intraorganizational, and interorganizational. From the perspective of strategic management, institutional environment and resource selection are both important components for institutional capital. Bresser, *et al.* (2003) analyze the levels of formation of institutional capital. Institutional capital can be external or internal institutional capital in relation to the context which may contribute to create and enhance the competitive advantage (Bresser & Millonig 2003).

Internal institutional capital is shown at the individual and intraorganizational levels with different cognitive and normative institutional components that explain the dissimilarity, heterogeneous and isomorphic tendencies (Miller 1996, p. 287). Institutional capital as resource capital has the capabilities to obtain a competitive advantage with the external and internal institutional environment leading to economic benefits and more sustainable development. Institutional capital provides the context for effective maximization of resource capital, which is non-substitutable (Meyer and Rowan, 1977).

At the micro level, institutional capital relates to corporate management and the competitive advantage of a firm by defining it as the resource, capacities and environmental factors embedded in the enterprise's institutional environment that can improve value-added assets and competitiveness. Thus, institutional capital is the input that can create economic income, from the perspective of corporate strategic management and acquisition of competitive advantage. At the micro level, institutional capital focuses on capital property and economic benefits (Huang and Cao, 2016). Traditions and history of the corporation constitute institutional capital imprinted in the business environment as an inimitable resource. More generally, institutional capital meets human needs efficiently and effectively as valuable productive assets (Shi and Ke, 2000).

At the macro level, institutional capital is related to the superiority in comparative institutional advantage of national economic and political institutions. The institutions of any state in any country that own institutional capital maximize the market and deepen the sustainable economic development. From the macro perspective, institutional capital is defined as the superiority resulting from national economic institutions and political institutions (Huang and Cao, 2016). At the macro level, institutional capital can be the resources effectively controlled by the state or by improving strategies of civic and organizational forms of participation and civil society (Buell, 2005). Business groups can develop institutional capital with their own capabilities.

Institutional capital at the two levels, micro- and macro-level, are not contradictory because both have different levels of abstraction and generalization (Yang and Wang, 1997). Internal institutional capital is formed by cognitive and normative capital, while external institutional capital is more related to regulative capital (Bresser and Molling, 2003).

Institutional capital includes cognitive capital, normative capital and regulative capital (Scott, 1995). Cognitive institutional capital establishes mechanisms derived from the cognitive psychology to create a competitive advantage. The normative institutional capital establishes institutional mechanisms to adapt values and norms to economic rationality aimed to obtain a competitive advantage. Regulative institutional capital employs regulative mechanisms for formal and informal arrangements dividing institutional capital into formal and informal (Gao, *et al.* 2015). Formal institutional capital is formed by the formal acquisition of resources, while informal institutional capital is formed by resources, information and knowledge acquired through relational networks.

The institutional capital approach to sustainable development has the elements of public domain, institutional strength, good governance, and institutional equilibrium (Platje, 2008b). Institutional capital contributes to the legitimacy of the organization (Martinez and Dacin, 1999) through cultural-cognitive consistency (Yang and Su, 2014). The institutional capital is an element of the environment or institutional framework, including organizational and familial institutions, morals, deontology, rules, etc., and other institutional resources with any direct relation to economic production, interactions and exchanges. The elements of institutional capital that promote economic development, according to Boisier (2003), are the number of institutions; the climate of inter-institutional relations that imply the state of cooperation, conflict and neutrality; and the degree of modernity of the institutions as characterized by speed, flexibility, malleability, resilience, intelligence and identity.

Another important factor is the institutional equilibrium (Platje, 2008a) based on informal institutions, such as culture and mental models supporting and strengthening formal institutions to stimulate sustainable development and the functioning of "institutional governance" (Furubotn and Richter, 1997). It is assumed that the institutional equilibrium of efficient institutions has effects on sustainable development and institutional governance. However, mental models that support sustainable patterns of production, marketing and consumption make less relevant formal institutions and institutional governance. Likewise, the institutional efficiency may change over time due to some determinant factors, such as the level of trust and technological changes.

A characteristic that determines the nature of institutional capital is that a resource collective confers a status to its holder, but it has limited appropiability by individuals. A factor of production and development is productive and durable, with a slow and long process of accumulation, however, it improves and facilitates their accumulation. It has space-time localization and it is linked with other forms of capital. It has perverse effects with other forms of capital (Bénédique 2009). Institutional capital is considered in its institutional values and functions as the main characteristics of the formation of an agrarian market. Rules, norms and mechanisms of market implementation are some characteristics of institutional capital. Cultural, social, human and intellectual capitals are institutional factors of institutional capital. The functioning of institutional capital constituents contributes to the development of market processes of an economy (Mamchur 2016).

To be capital, the properties of any stock of institutional capital must be considered as a production factor and have the capacity to confer some values to the holder, suchs as accumulation, tangibility or intangibility, profitability, social richness, transferability, durability, obsolescence, fungibility and depreciation. The institutional capital generates profitability by reducing the transaction and production costs of information and uncertainty in the interactions between economic agents allowing more effective economic exchanges. Institutional capital facilitates the accumulation of other forms of capital.

According to Garrabé (2007), the accumulation of institutional capital may take the forms of institutional imitation, convergence or institutional harmonization, institutional innovation, and progressive transformation of informal into formal institutions. Any institutional reform may contribute to institutional capital accumulation. Institutionalization may be a process for the accumulation of the institutional capital. An increase in the number of the institutions may correspond to an accumulation of institutional stock.

The institutional capital is analyzed by Loureau (1972) in three phases: the pre-established institutions becoming unconscious habitus (Bourdieu, 1972) or habit (Hodgson, 2006). With time, the appearance of social strains and crisis leads to social change with an institutionalization process that may reach a period of stabilization. The accumulation of institutional capital is in slow evolution in time, except during periods of crisis and is done incrementally by successive contributions (North, 1991). However, accelerated institutional capital accumulation can turn into a contradictory institutional arrangement without operational links. Also, the dis-institutionalization processes may result in accumulation or dis-accumulation of institutional capital (Hodgson, 2006), which can be an individual or institutional convergence, voluntary, negotiated or imposed.

The institutional capital maintains its durability if the context of the economic production process and exchanges are not modified. The obsolescence of the institutional capital is caused by social innovation in new institutional developments in social space and time when institutional arrangements are designed for the changing needs of economic processes (Bajenaru, 2004). Institutional capital accumulation continues as long as an economic and social crisis obliges it to change the actual institutional arrangement. Institutional capital involves an accumulation in time until the economic agents design new institutional arrangements. This new design may accelerate accumulation if it does not contradict the old one.

The value of stock is related to the effectiveness of the accumulation of institutional capital. In this sense, improvement and adaptation of the institutional stock with the needs for the economic interactions and exchanges without contradictions may contribute to the accumulation of institutional capital. Institutional capital is fungible in human capital through the appropriation and integration by individuals in their habit of behavior (Hogdson, 2004). Institutional capital and human capital are mutually related with strong links between individuals acquiring knowledge and organizations gradually creating and accumulating institutional capital (Ahrens and Jünemann, 2009; Fedderke & Luiz 2008). Institutional change and reform are driven by people (Acemoglu and Robinson, 2008; Ahrens and Jünemann, 2009).

The measuring methods of institutional capital are based on operationalization conducted by external institutions, such as government, and on institutional characterization within the organization.

B. Institutional capital and sustainable development

In the generation of macro-economic development of the peoples, human capital is required and factors such as trust, a social capital base and the quality of the rules of behavior and their compliance mechanisms as implied by institutional capital (Marshall, 1963). Institutional capital provides the structures of a social framework for interactions and exchanges participating in the downside of social capital (Portes and Landolt, 1996). However, social capital contributes to institutional capital accumulation to create organizations.

Institutional capital is a fundamental requirement of sustainable development. Nations benefit from institutional capital stocks (Trebilcock, 1996; Kaji, 1998 and Ahsan, 2003). Institutional capital is an essential component of sustainable development. Institutional capital with good quality institutions adapted to contribute to sustainable development (Platje, 2008b) can be generated through institutional reform. Institutional capital influences the development of political and economic sustainable development of modern society (Brunell, 2005). The existence of institutional capital is essential for any type of sustainable development with an efficient productive, exchange and consuming system.

Institutional capital can achieve sustainable development through four sources: public domains, economic systems, governance structures, and formal-informal institutions (Platje, 2008a). Public domain favors opportunistic and rent-seeking behaviors, which decreases institutional capital and increases transaction costs due to lack of explicit property rights. The economic system provides incentives for economic activities. Governance is related to rule and policy development. The equilibrium of institutional informality and formality balance the institutional capital (Platje, 2008b)

The quantity and quality of institutional capital stock and flows play a determining role in economic sustainable development and the reduction of poverty. Good quality institutional capital and fair trade lead to a decrease in inequality (Mamoon, 2007; 21). Institutional capital capacity is a condition to sustainable development policy achievements (Evans et al., 2006). Institutional changes and reforms requiring the use of other forms of capital may accelerate the accumulation of institutional capital required for the improvement of sustainable development and poverty reduction.

Institutional capital facilitates internationalization performance of firms by combining the contextual variables such as the institutional maturity, political stability and management abilities of home and host countries (Child and Marinova, 2014). External regulative institutional capital is measured in terms of the capital taken from the institutional environment, such as government (Wilkinson and Brouthers, 2006). Institutional capital may be supported by institutional arrangements and incentives to obtain rents, supports and relations. Also, institutional capital may be obtained from institutional diversity and differences such as "institutional arbitrage" (Jackson, and Deeg, 2008).

C. Relationships of cooperation on the interaction between trade and environmentally sustainable development

International organizations relating and promoting open trade around the world are concerned with relationships of cooperation and conflict between marketing and sustainable development. There is a need for international coordination for relationships of cooperation and conflict aimed at open trade and free market to achieve sustainable economic development. The World Summit on Sustainable Development in 2002 called for more cooperation among the United Nations Economic Program (UNEP), the Bretton Woods institutions, and the World Trade Organization (WTO) (UN, 2002).

Functionalism and institutionalism, including rationalism, have some limitations that show that inter-state negotiations are not the only way to develop international cooperation and coordination of open trade activities aimed to achieve sustainable development. Inter-state contexts with common historical background and cultural values are not always available to haggle in negotiations. Less developed and less powerful states have a disadvantage in negotiations due to their positions of vulnerability, and sometimes their isolation. This situation may be an obstacle, or at least makes it more difficult to achieve a desired level of cooperation on global issues related to trade and sustainable development policies.

To implement the different forms of inter-state coordination and cooperation in trade and sustainable development issues, it would be beneficial to structure an organization with its own legal personality and maintain the convergence among the states. Global norms, values and meaning structures in a world polity theory as a macro-structure provides the framework for the interpretation of inter-state coordination and cooperation based on historical background and cultural values shaping the actions and identities of the states.

It should be noted that North-South, as well as South-South cooperation have greater implications in establishing new international order in open trade, free market and sustainable development (An, Chen, 2013). It is important that free trade agreements have their own mechanisms working for developing relationships of ongoing cooperation to promote their mutual interests in sustainable economic development. Among the different options, the participating parties of free trade agreements must promote economic, social and environmentally sustainable behavior, which may include relationships of cooperation and coordination requiring compliance with host state laws, compliance with recognized universal standards and encouragement to implement applicable corporate social responsibility (CSR) standards at any stage. Among other heterogeneities, the non-legal forms of cooperation and other flexible arrangements to pursue sustainable economic development reflect the historical and cultural values of the involved parties.

Social cooperation aimed at producing and allocating benefits requires principles of justice as the first virtue of social institutions to overcome the burdens and social costs in terms of equal rights of citizens. International rules on the fundamental rights of citizens related to mutually beneficial economic cooperation across frontiers should be incorporated into national constitutions and legal systems as a safeguard for human rights to override domestic effects of free trade agreements. Human rights and economic legislations, democratic self-governance and the rule of law, are continually evolving through dialectic processes of national, international, regional and global regulations aimed to protect economic cooperation in trade and sustainable development that is mutually beneficial among citizens, organizations, businesses and states. This Cosmopolitan constitutionalism is based on the principles of justice and human rights of common humanity.

Economic and political institutions that have developed an institutional capital can support principles and norms for different forms of coordination and cooperation between states emphasizing the trade and commercial relations that underpin the sustainable development of the two countries. Cooperation may achieve decisions on specific practices of market trade and sustainable development as reflected in the principles and supported by the implementation of collective choice.

Free trade agreements incorporate institutional capacities to deal with cooperation and coordination on issues of trade and environmental concerns to design environmental policies to be implemented regionally. The development of these institutional capital, in terms of cooperation and coordination capacities on environmental concerns and free trade, may increase the gains to producers from trade liberalization resulting from cooperation to lower transaction costs of crossing the borders in research and market development on sustainable development issues. A good example of the development of institutional capital capabilities and capacities of an industry that has begun to pursue cooperative goals in sustainable development are the Mexican Confederacion Nacional Ganadera, the Canadian Cattlemen's Association and the US National Cattlemen's and Beef Association (Wainio, Young, and Meilke, 2003).

Under the framework of the North American Free Trade Agreement (NAFTA), The Commission on Environmental Cooperation was established in 1992 as the dispute settlement body of the Commission for Environmental Cooperation (CEC) to deal with issues of harmonization of environmental standards and restrictions to the exploitation of resources. The North American Agreement on Environmental Cooperation (NAAEC) attempted to bring environmental issues into the open trade discourse, by converging the international environmental frameworks into the framework of a free trade agreement, although it does little to raise environmental standards (NAAEC, 1993).

The adjudicatory perspective has also initiated the multilateral convergence for cooperation on trade, environmental and sustainable development concerns. This objective became clear in the North American Agreement on Environmental Cooperation (NAAEC) as a side-treaty of the North American Free Trade Agreement (NAFTA), which is considered the cornerstone in the integration of environmental rules and provisions. Other later attempts made by the Organization for Economic Cooperation and Development were unsuccessful due to irreconcilable interests between the member states.

It is quite important for international negotiators to take into account the common inter-state contexts of historical and cultural values when advancing market proposals aimed at economic sustainable development. Free trade agreements between neighboring countries are prone to have politically focused agreements to set a stage for greater coordination and cooperation relationships between relevant actors to ensure market and environmental activities. These agreements integrate broad norms and regulations to facilitate the interactions and exchanges of information supported by principles of responsibility. However, under the frame of NAFTA, the United States of America has adopted a more confrontational approach instead of a cooperative approach for monitoring compliance of environmental and sustainable development regulations by focusing on local capacity building without technical assistance that is leading to severe disputes and conflicts.

Under any free trade agreement, the involved states must have incentives to ensure the effectiveness of the institutions to enhance institutional capital and promote cooperation between them on issues related to the development and monitoring of an economic and trade exchanges and capacity building for sustainable development. The main purpose is to outreach activities of national institutions to facilitate cooperation in the use of the free trade agreements by businesses without inflicting damage to the environment from a sustainable development approach.

More cooperation in international economic and technical assistance is required, assuming there are resources available on the basis of underlying principles of constitutional pluralism and international justice aimed at the impact of trade on sustainable development issues.

D. Conflicts between trade and environmentally sustainable development

Decision making processes under the frame of free trade agreements is narrowly focused on solving trade and environmentally sustainable development conflicts rather than the role of promoting long term objectives on these issues, guidelines to the states to address their obligations and dispute settlement tribunals for implementation problems. Free trade agreements are embedded into international law and its purpose as a treaty is conformity with the principles of justice and international legal obligations of all the parties.

Doctrines of private conflict of laws facilitate resolving coordination and cooperation problems among regulatory authorities of adversely affected cross border interests, narrowing the gaps between international business interests, mediating national and international conflicts of normative orders, etc. Treaty provisions of international law stipulate presumptions against conflicts based on principles of good faith *and pacta sunt servanda.* The agreements emanated from the States are interpreted under the principles of good faith and *pacta sunt servanda* as presumptions against conflicts and are intended to produce effects in accordance.

However, free trade agreements emanating from states are interpreted as intending to produce effects according to the law. The presumption against conflict has been enforced in cases where there are separate agreements between the same parties. The presumption against conflict is applied to disputes and reinforced through the separate agreements that are concluded between the parties are consistent with each other.

Organizational and institutional isomorphism does not necessarily mean equifinality as an import of highly idealized global culture into diverse local contexts; domestic conditions seem to be infeasible and leads to conflictive components. These local resistances to global culture may be the result of the states commitment to preserve identity and socioeconomic development (Finnemore & Sikkink, Meyer & Rowan, 1977; Strang & Meyer, 1993).

The presumption against conflict requires interpreting the trade agreement to support the compatible obligations. The judicial and political roles can come into conflict if the mechanism for the States interventions are not well designed in accordance with applicable legal and judicial principles and by limiting their interpretation for short-term interests and conflicting legal frameworks.

Although some conflicts and disputes in NAFTA have dealt with environmental and trade concerns more than on investment and trade, a good example is the conflict of public rights of action between Mexico and the United States that emerged with the sugar disputes and collided with private rights of action. Also, one of the other most relevant conflicts has been the movement of Mexican small farmers, including El Barzon, who were producing crops in disadvantaged and non-competitive conditions under the NAFTA frame. They protested in January 2003, seeking better positions in the trade agreement of maize and beans and the renegotiation of the agricultural chapter.

Agricultural trade policies in Mexico under the framework of the renegotiation of NAFTA's agricultural chapter have been modified in response to organizations of small-scale farmer's mobilizations and international commitments. However, the claim of renegotiation was not achieved to be incorporated in the agro pact and agricultural production was constrained to quotas. This conflict was solved by the Mexican government maintaining a position in equilibrium between domestic demands and constraints and international imperatives.

Private investors presented an investment dispute against the state at the regional level while simultaneously the State presented a trade dispute for adjudication under the WTO panel (Trujillo, 2013).

The formation of trade commissions raises serious problems for cooperation relationships and may lead to conflicts in terms of their functions, accountability, transparency, judicial roles, arbitration proceedings and inconsistency in decisions in the complexity of economic globalization processes. In cross-border jurisdictional conflicts, national courts and legislatures may protect legitimate interests of transnational jurisdictions and governance and protect the principles of cosmopolitan justice. However, the cosmopolitan international economic law, transnational integration law and adjudication perspective refute the incapability of law to provide justifications for normative solutions by institutionalizing public reason to limit power politics.

Adjudicatory conflicts may lead to the creation of environmental regimes and mechanisms for negotiation and regulations which may transform the state into a manager of regulatory norms. To avoid conflicts on the enforcement of national regulations on trade and environmentally sustainable development between different countries, the best solution is to enforce the application of international standards and regulations. However, some member states may enforce more strict regulations than those approved by international standards and regulations, which in turn leads to conflicts. Options to resolve this type of conflicts should be investigated.

The different processes used to reduce the tensions and solve the conflicts and disputes inherent to trade and environmentally sustainable development should be investigated, however, it is more appropriate to try to find solutions at earlier stages before the conflict and dispute arises. Conflicts between the parties should be resolved through mutually consistent interpretations and cross border judicial protection of the rule of law. Legal and administrative principles and regulations are necessary to protect individual human rights, the role of the economic market and trade and environmentally sustainable development from conflicts between private and public interests and between national and inter-state interests.

3. Research model for critical analysis

In order to review and critically analyze existing literature, it is necessary to display the main variables and their relationships and interactions in the operating framework of the North American Free Trade Agreement (NAFTA). As an independent variable, institutional capital is considered in two dimensions: relationships of cooperation and conflict. The dependent variable is considered the environmentally sustainable development policy making and the mediating variable is trade and marketing activities. Figure 1 shows the relationships between the three variables.

Figure 1. Research model for the analysis of institutional capital on trade-marketing and environmentally sustainable development policy making

4. Trade-marketing and sustainable development: A dialogical relationship of cooperation and conflict

A. Trade and marketing

Enterprises that have similar structures for cooperation have different behaviors, however, they have the opportunity to complement each other's resources, capabilities, marketing, entrepreneurship, etc. Under cooperative strategies, these enterprises can face competitive industrial threats that can be used to achieve innovation, capability building, competitive advantages and better positioning. Innovation includes not only the technical but also the administrative, commercial and marketing activities of a new or improved process, product and commercial use (Freeman, 1995).

The incremental improvement and radical or disruptive changes of industrial innovation involves the commercialization and marketing of technological change, including small-scale changes in technological know-how ''disruptive'' innovation (Rothwell and Zegveld, 1985). The relationships and interactions between the countries in the field of trade expand to the production and marketing of goods and services allowing for the optimal use of natural resources in accordance with the aims of sustainable development, seeking to protect and preserve the environment consistent with the needs and concerns of current and future generations.

Trade affects the structures of production, exchange and consumption activities which may impact and negatively affect the environmental sustainability across countries. Developing countries are required to develop capacities in marketing rules and norms, negotiation, knowledge brokering to design and shape the interactions between trade and environmentally sustainable policies and maintain external legitimacy in front of other organizations. National negotiation capacity should be increased based on trade principles and environmentally sustainable development policies.

Free trade regimes have a limited role in the normative approach to environmental sustainability (Trujillo, 2013). NAFTA has focused on the enforcement of national regulations while the European Union relies more on policy coherence and cooperation between the trade partners. NAFTA institutions influence trade and environmental sustainability policies by taking into consideration that country members defer their authority based on expertise, social network and institutional memory (Jinnah, 2010). NAFTA institutions influence trade and environmental sustainability politics by legitimizing the strategic marketing practices and technical knowledge brokerage and attempting to level the development between countries (Jinnah, 2010).

The marketing approach to the interaction between trade and environmentally sustainable development is subject to the expertise and social networks involved (Jinnah, 2010). Marketing organizational rules and norms in NAFTA to frame, design and shape access to memberships of NGOs is an important activity to spread understanding of the implications between trade and environmental sustainability (Jinnah, 2010).

The guidelines approach of minimum standards for health, safety and hazardous products regulate and establish international rules for marketing control (Micklitz, 2000). NAFTA regulations on the local production of drugs, promotion of traditional medicines, personal training, and compliance of manufacturers' marketing and promotional efforts with public health objectives were considered irrelevant (Harland, 1987, pp. 257-258; Merciai, 1986, p. 217). NAFTA should market regulations, norms, and practices on the health benefits of products through direct participation in cross border exhibitions, fairs, expositions and other events.

One good example of the use of marketing techniques in trade under the framework of NAFTA and its implications on environmentally sustainable development is the analysis conducted by Rodriguez Diaz (2012) of the Canadian and Mexican dairy producer corporations. Agropur is a dairy producer cooperative company from Quebec with more than 4 cooperative members in 21 plants in Canada and the United States (Industry Canada, Agropur's Profile, 2005).

Agropur uses a direct marketing combined with techniques strategy. Direct Marketing is a form of advertising used for business communication straight to the consumer without using traditional channels while indirect marketing uses relational marketing techniques and social networks (Kotler et al., 2008). Agropur exhibits a matrix-kind of democratic structure that is concerned with performance practices and proactive marketing companies as suggested by the National Milk Marketing Plan and influenced by other transnational corporations (Rodriguez Diaz, 2012).

Mexican cooperative, Grupo Lala, produces, processes and distributes dairy products with a wide network through the Mexican territory using an innovative direct technique in processes and products that sometimes do not meet the needs of consumers. On the other side, the flow of information and knowledge processes, product and service innovation through experience sharing and marketing techniques are some strengths of Grupo Lala.

The strategic marketing techniques of both companies, Grupo Lala and Agropur are aimed to fulfill the different segments of consumers of the Mexican market. Some of these strategic marketing techniques use marketing strategic alliances, joint ventures, acquisitions and consortia, which mainly initiates change for manufacturers, suppliers, distributors, customers, etc. (Urban and Hauser, 1993).

Processing and manufacturing of primary agricultural products in marketing theory are perceived as product differentiation in marketing and trade (Harris, 1984; Hertel, 1994). Food processing sectors are characterized as oligopolistic in the North American market combining the strategies of product differentiation, endogenous price mark-ups and freedom of exit-entry (Harrison, et al., 1995). Both Canadian and Mexican dairy transnational companies do not use direct marketing techniques influenced by the environment to foster regional and local dairy market developments to be competitive. Agropur is influenced by the competence of Kraft and Saputo while Lala is influenced by Danone and Nestlé in order to remain competitive.

The international marketing regulations on product safety aimed to establish control of hazardous products to protect consumers against production and marketing have not been undertaken. Marketing regulations and rules in NAFTA must be robust to involve commodities distinct in production and marketing arrangements and practices on trade and their relationship with environmentally sustainable development. Since the early 1990s, the inter connection between trade and environmentally sustainable development policies have been debated prominently during the negotiations and after that the renegotiations about the North American Free Trade Agreement (NAFTA).

Environmental organizations and groups harshly criticize the marketing approach to trade and environmental sustainability concerns, claiming that more transparency and accountability is needed by facilitating open access to the public information through digital, conferences and printed outlets. A process of transparency and accountability that makes information accessible to all the economic agents and to the public, and is promoted by institutions of NAFTA increases the institutional capital. Other actions to increase transparency are to market rules, norms, practices, activities, etc., through direct participation of economic agents and the general public in events.

NAFTA must continue working in marketing organizational regulations, rules and norms related to the interaction between trade and environmental sustainability opening to critical access to frame and shape policies to broader public understanding (Weiler, 2001, 14–15. 66. Hudec, 1999). The role of the NAFTA member countries in marketing the regulations, rules and norms to other organizations, as well as the negotiations and brokerage are critical activities to develop and maintain legitimacy through the design, shaping and sharing of the relationships and interactions between trade and environmental policy developments.

Unfortunately, there is a lack of clarity and explicit provisions to regulate the side effects of interactions between marketing regulations in trade and environmentally sustainable development. However, international organizations engaged in developing global marketing strategies have developed eco-label regulatory schemes to identify the product's impact on the environment based on the life cycle and provide information to consumers about the environmental quality.

B. Environmentally sustainable development

Global, transnational, regional and national regulatory regimes are converging in harmonization of actions in international standards in trade and environmental sustainability, leaving less important roles to the States in the creation and enforcement of rules. The States are the most important institutions of global society who legitimize trade and environmentally sustainable development regulations through international organizations, conference and meetings, etc. (Kabblers, 2013). Global forces of markets have increased their influence on the interaction between trade and environmental sustainability while local forces have decreased as markets have become more open. Even under conditions of less open markets, the economic agents follow the global signals.

The emergence of a global and international administrative space for interactions of trade and environmental commissions involve both domestic and international organizations and institutions, inter-governmental organizations, transnational networks, and coordination arrangements, all of which give rise to concerns about transparency and accountability (Krisch and Kingsbury, 2006). An international regime of a free trade agreement does require that the trade and environmentally sustainable development regime have a formal organization in order to exist. Strategic choice across different national market domains on trade and environmental sustainability issues must take into consideration differences in natural resource endowments, geographic factors, infrastructure, etc.

The free trade agreements have a normative role in environmental sustainability. The approach of NAFTA to trade-environment is more normative than practical and overlaps management interaction with environmentally sustainable development issues internally, informally and quite limited. The Mexican government implemented NAFTA to stimulate sustainable development. The Mexican sustainable development is a guideline of the operation of free trade agreements aimed at the optimal use of natural resources and seeks to protect and preserve the environment. NAFTA is slowly shaping the relationship trade-environment politics, which is becoming increasingly relevant and contributes to organizational legitimacy by setting the regulations, norms and processes.

Trade regimes are developing trade judicial and administrative capacities in trade adjudication and the creation of centralized bodies to deal with and manage the relationships and interactions in cross-fertilization between trade and environment. However, centralization of a sided agreement to regulate the implications of trade on environmentally sustainable development under the authority of the free trade agreement leads to decision making that is prone to political deadlock and difficulty in adaption and correction.

The administrative and judiciary functions of NAFTA grapple with trade jurisprudence to better accommodate domestic policies to address sustainable development and to develop green economy policies and strategies. Administrative and adjudicatory functions of free trade agreements should grapple with trade jurisprudence that may better accommodate for domestic policies intended to address sustainable development concerns, other international organizations are engaging in developing global strategies for sustainable development.

The concept of sustainable development has been accepted since the mid 80's when in Rio Declaration on Environment and Development declared that human beings are entitled to a healthy and productive life in harmony with nature. An important advancement in these subjects has been to identify the relationships between trade and environmental measures and to identify the linkages between trade and sustainable development to promote environmentally sustainable development and formulate policies to encourage precatory approaches.

The principle of sustainable development is incorporated in the free trade agreements in order to achieve a balance between economic and non-economic rights and concerns of current and future generations. Furthermore, it has become relevant to analyze social issues and implement policies that may intersect with trade and sustainable development, protection and preservation of natural resources and to address climate change concerns. Also, the linkages between trade principles, economic growth, sustainable consumption, social issues, climate change concerns and environmentally sustainable development must need to be promoted and raise awareness by policy-makers at domestic and regional levels.

Fertilizations of cross-border trade and environmental sustainability issues enhance the collaboration among the nations involved in the free trade agreement toward more green and clean domestic economies. According to Trujillo (2013) the dialogical approach highlights the adjudicatory and administrative capacities of the trade agreement and the fragmented nature of trade governance.

The dialogic approach provides a nonhierarchical framework for the analysis of interactions between trade and environmental sustainability issues. Trujillo (2013) uses a dialogical approach to frame trade governance and to explain the adjudicatory and administrative functions in cross-fertilization between trade and environmental sustainability issues towards a convergence between domestic and global environmental and trade regulations. International organizations may support convergence with the States through different forms of cooperation in the development and implementation of trade and environmentally sustainable development regulations. The manner in which trade regimes deal with environmental policies influences the link of economic development with sustainable development.

There is an increasing convergence among these variables that may lead to a model of sustainable development. The emerging regime is one of furthering trade principles with green economic growth and environmentally sustainable development goals. The thesis of convergence and inevitability is a polity theory developed by Wittrock (2000), who argues that modernity is a global condition affecting all actions, interpretations and habits across nations. These dynamics allow cross-fertilization of environmentally sustainable development concerns into cross-border trade negotiations. Fragmentation in trade adjudication is relevant to analyze cross-fertilization between trade and environmental sustainability issues. The cross-fertilization processes between cross-border trade and environmental sustainable issues incorporates domestic regulations on this subject into the legal free trade agreement framework to recognize its legitimacy. Non-state parties' participation in the trade framework enhances cross-fertilization and dialogue among the different parties. The free trade agreement itself has provided a forum for a jurisdictional regime through adjudicatory processes in a regional arrangement in interaction with the trade agreement and recognizing the cross-border trade and environmental sustainability relationships. It may be argued that the free trade agreement may not be the correct forum to resolve issues on environmental sustainability, despite the impacts that they have on cross-border trade.

NAFTA was the first free trade agreement to incorporate trade concerns into environmental sustainability issues through the formalization of NAAEC. NAAEC has an adjudicatory mechanism to claim environmental sustainability disputes although it is not being used at all. NAFTA involves complex exchange relationships of trade and environmental sustainability issues between the three countries which involve cross-border supply chains and technological changes. This mechanism has been useful in cross-fertilization processes of environmental and trade concerns. This process of cross fertilization between trade and environmental sustainability issues within the NAFTA trade jurisdiction has an impact on the convergence of national regimes.

Under the assumption that not all countries and regions have developed the same capacities to integrate due to the interactions of local-global forces and economic, political, social, geographical differences, infrastructure and production regimes. Country members of NAFTA have developed some limited capacities for domestic networks of institutions and organizations across trade and environmental sustainability concerns. Nevertheless, the magnitude of these influences may change over time.

Recent developments in sustainable development elements indicate that it plays a relevant role in investment policies. However, what is the best for investment regimes is not always good for trade and environmental sustainability and development. The free trade agreement is based on the assumption that free trade and investment must guarantee sustainable development for the participating countries. Foreign investments and international cooperation for economic development are relevant and have a positive impact on the sustainable development of the host country. Policy making on sustainable development has emphasized the role of foreign investment.

Sustainable development is the main objective of foreign investment policy making of any country to achieve integration and balance of economic, social and environmentally sustainable development aimed at common interests between the home and host countries. Host countries should not consider foreign investment as a barrier considering that they play a relevant role in enacting environmental regulations for sustainable development. Sustainable development has been universally accepted as a common objective for contracting parties to meet the needs of capital-importing states and the needs of economic, social and environmentally sustainable development of host states. In response to various challenges, recent investment agreements promoted by the States places greater emphasis on preserving the regulatory capacities of host states to pursue environmentally sustainable development as public welfare objectives.

The relationships between advocating foreign investment, trade and sustainable development should be emphasized and balanced with the pursuits of economic growth objectives through environmentally sustainable growth. Free trade agreements may directly impose foreign investment national regulations upon sustainable development. Furthermore, policymaking includes foreign investment and international governance for sustainable development and integration of investment policies. NAFTA's Environmental Side Agreement began to direct attention to the relevance of an agenda for foreign investment and sustainable development. The best endeavor clause does not impose proper substantive obligations upon contracting parties but the right to adopt, maintain and enforce measures considered appropriate to ensure sensitive investments to environmentally sustainable development concerns. Besides, the parties may consult each other.

NAFTA should contribute to the sustainable development of the countries. Foreign investment policy for sustainable development should be aligned with investment for inclusive economic growth, social issues and environmental concerns. Foreign investment policies in host countries must be aligned and integrated with its sustainable development strategy. Protection of foreign investment should not hinder the power of the host state to regulate public interests for public health, safety, social issues and environmentally sustainable development concerns. Passive action of host states reduces the operation costs of foreign investments and cannot claim rights.

However, the administrative capacity has allowed some overlaps between public and private rights of action when considered as a dynamic regime. This overlapping between public and private rights of action is illustrated with the conflict between the United Mexican States and the Corn Products International. Other trade disputes resulted in negotiations and dealings with the environmentally sustainable regulations. The economic, social and political capacities of safety nets for trade and environmental sustainability across countries are influenced by dependent and interdependent interactions in international negotiations, public outreach and dispute settlements among the parties.

Complex economic, social and political changes initiated during the 1980s in Mexico had an impact on the economic organization and social structure of rural development and rural livelihoods. Despite the fact that rural communities were strained, corn persists as the main crop of livelihood strategy (de Janvry, Sadoulet, and de Anda, 1995; Eakin et al., 2014; Wiggins et al., 2002). Regional cross-border integration in agriculture under the trade framework of NAFTA is provided by the cross-border cattle trade. The disruption of the process of integration of the red meats industry occurred across borders (Veeman, 2017).

This situation has created some concerns for Mexicans regarding food security and food sovereignty. Food security is considered the permanent supply of 'basic and strategic staples' for the population and 'food sovereignty' is the priority accorded to national production for supplying the staples, according to the Mexican Law of Rural Sustainable Development (December 2001) (Cámara de Diputados, 2003: 96). The environmentally sustainable development policy and strategy may be implemented by voluntary schemes through business, non-governmental organizations and local communities to improve performance.

CONCLUSIONS

The critical analysis of the implications that the relationships of cooperation and conflict have in building the institutional capital capacity as developed through the existence of the North American Free Trade Agreement, which is severely questioned by its country members, reveals that it has positive effects on trade and marketing activities. However, the interaction of the relationship between trade-marketing activities with environmentally sustainable development proves to be highly contentious and conflictive, although some developments are proving to be positive.

A strategic future definition of NAFTA requires more structural flexibility, not only in regards to regulations, but also in developing capabilities by considering the specific environments of each involved country. The combination of capabilities and regulations are necessary to develop new forms of association, such as the horizontal alliances.

Institutional capital development in NAFTA may increase the opportunities to improve the relationships of cooperation, the exchange and interaction between the three nations and among the main economic agents in specific areas of market development, trade operations and environmentally sustainable development. Lowering transaction costs of the trade operations and enforcing sanitary and phytosanitary concerns are only two issues to take care of.

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